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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of

Billed Party Preference for
0+ InterLATA Calls

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) CC Docket No. 92-77
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COMMENTS ON SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

**CITIZENS UNITED FOR
REHABILITATION OF ERRANTS**

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July 16, 1996

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**COMMENTS OF CITIZENS
UNITED FOR REHABILITATION OF ERRANTS
ON SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

Citizens United for Rehabilitation of Errants ("C.U.R.E."), by its attorneys, hereby submits these comments in response to the Commission's Second Further Notice of Proposed Rulemaking in the above-captioned proceeding on the issue of whether there exist alternatives to billed party preference ("BPP") that could be applied to remedy the unnecessarily high cost of calls originating from inmate-only telephones in correctional institutions.^{1/}

INTRODUCTION AND SUMMARY

C.U.R.E. is a national, non-profit organization dedicated to promoting the reduction of crime and the rehabilitation of offenders through reform of the nation's criminal justice system.^{2/} C.U.R.E remains critically concerned that the families and friends of inmates are

^{1/}In the Matter of Billed Party Preference for InterLata 0+ calls, CC Docket No. 92-77, Second Further Notice of Proposed Rulemaking, FCC 96-253, released June 6, 1996 ("Second Further NPRM").

^{2/} C.U.R.E.'s membership includes current and former inmates, their families and friends, Federal, state and local legislators, religious and civic leaders, affiliated non-profit charitable organizations, and other supporters interested in promoting the rehabilitation of inmates through reform of our nation's penal system.

being forced to pay unnecessarily high rates and charges to receive collect calls from inmate-only telephones in prisons, jails and other correctional institutions.

As C.U.R.E. and others have previously shown, consumers who receive collect calls placed from inmate-only telephones often are economically disadvantaged, typically reside some distance from where their loved ones in prison are located, and frequently have no means other than the telephone to maintain contact with mothers, fathers, children and others in correctional institutions.^{3/} Yet often these consumers are forced to pay oppressive rates and charges to maintain ties with families and friends in jails and prisons. Not only do these unnecessarily high charges adversely impact these often low-income consumers directly, they work to the detriment of society in general by reducing or eliminating rehabilitative ties that have a demonstrable effect in reducing recidivism, preserving the family unit, easing prison tensions, and promoting societal efforts to rehabilitate ex-offenders.^{4/}

To address the foregoing concerns, C.U.R.E. has been urging the Commission for over three years now to adopt a BPP scheme for inmate-only telephones in order to redirect the competitive efforts of collect-only inmate telecommunications service providers ("inmate

^{3/} See, e.g., Comments of C.U.R.E. on Notice of Proposed Rulemaking, CC Docket No. 92-77 (May 6, 1993) at 6-11 ("C.U.R.E. Comments I"); Comments of the Public Utility Law Project of New York, Inc. on Further Notice of Proposed Rulemaking, CC Docket No. 92-77 (July 15, 1994) at 7-8

^{4/} Id.

service providers") away from correctional facilities and toward consumers who actually pay for collect calls originating from inmate-only prison telephones.^{5/}

Although C.U.R.E. continues to regard BPP as the best available means of promoting lower rates and improved services for families and friends of inmates, C.U.R.E. also believes that action must be taken now, prior to the advent of BPP, in order to provide swift and effective rate relief from excessive inmate phone charges. Thus, as an interim alternative to BPP, C.U.R.E. believes that a properly fashioned rate-cap applicable to inmate calling services might offer an effective and timely solution to the significant problem of excessive charges in the inmate calling market. C.U.R.E. does not believe, however, that there exists any legitimate basis for establishing rate restrictions that exceed whatever restrictions are established for interstate collect calls placed from non-prison telephones. Moreover, additional operational safeguards should be implemented to facilitate implementation, monitoring and enforcement of inmate-telephone rate restrictions.

I. THE PROBLEM OF EXCESSIVE INMATE-ONLY TELEPHONE RATES REMAINS ONE OF CRITICAL CONCERN TO FAMILIES AND FRIENDS SEEKING TO MAINTAIN CONTACT WITH LOVED ONES IN PRISON

The problem of excessive charges for collect calls placed from inmate-only telephones remains an issue of critical concern to families and friends of inmates, many of whom are struggling to maintain contact with loved ones in correctional institutions. Each month C.U.R.E. receives numerous reports complaining about oppressive rates and charges

^{5/} See Ex Parte C.U.R.E. Comments I; Comments of C.U.R.E. on Further Notice of Proposed Rulemaking, CC Docket No. 92-77 (Aug. 1, 1994) ("C.U.R.E. Comments II"); Reply Comments of C.U.R.E., CC Docket No. 92-77 (Apr. 27, 1995) ("C.U.R.E. Reply Comments").

associated with collect calls from loved ones in jails and prisons. C.U.R.E. also receives complaints about service problems associated with inmate calls, including, but not limited to, frequent, unannounced changes in billing rates, inconsistent and confusing billing cycles, charges for non-completed or prematurely terminated calls.

The adverse impact of high inmate telephone rates on the families and friends of offenders is real and substantial. C.U.R.E. is routinely reminded that telephone contact with loved ones in prison is essential to maintaining familial and community ties necessary to reduce recidivism and promote the rehabilitation of offenders. At the same time, however, C.U.R.E. often is told that families are finding it difficult if not impossible to sustain those ties because of charges associated with collect calls from prisons. For example, as the mother of an incarcerated son recently complained,

"I have several objections to the current inmate phone system. First is the \$3.00 surcharge shared by the telephone company and the Department of Corrections. Talk about exploitation of a captive consumer! Not only has the prisoner lost his freedom, now his friends and family are penalized for keeping in contact with him. Those with a low income simply cannot afford to accept these exorbitant (sic) charges and are therefore deprived of contact with their inmate."

Similarly, recent press reports confirm that the problem of excessive inmate phone rates remains widespread. For example, a recent article in the Houston Chronicle indicated that

"...prison phone companies regularly overcharge customers...[and] '[p]eople say, 'Ah, it's a bunch of prisoners,'...but it's not. It's a bunch of prisoners' moms and dads and girlfriends who get screwed.'"^{6/}

Plainly, remedies are needed now to address these concerns. In the absence of swift Commission action, the recipients of collect calls placed from inmate-only telephones will

^{6/}Joe Hallinan, Prisons, Firms Making a Bundle for Telephone Calls by Inmates, The Hous. Chronicle, May 12, 1996, at A6.

continue to face significant financial barriers to maintaining contact with loved ones in correctional institutions.

II. RATE CAPS AND OTHER INTERIM ALTERNATIVES TO BILLED PARTY PREFERENCE SHOULD BE IMPLEMENTED TO HELP REMEDY EXCESSIVE INMATE COLLECT-ONLY TELEPHONE CHARGES

C.U.R.E. continues to feel strongly that BPP would be the most effective means of reducing rates and improving service to inmate-phone ratepayers. At the same time, however, C.U.R.E. recognizes that the Commission has determined that the issue of BPP requires further evaluation, and that additional consideration will be given to BPP in relation to the implementation of number portability.^{7/} During this interim period, C.U.R.E. is concerned that the families and friends of inmates will continue to suffer unless action is taken now to reduce excessive collect-only inmate calling rates. Thus, C.U.R.E. believes that the Commission should implement properly fashioned rate caps, accompanied by meaningful enforcement mechanisms, to provide an effective and timely solution to the problem of excessive inmate phone charges.

A. Properly Fashioned Rate Caps Would Help To Remedy Excessive Inmate Calling Rates Prior To The Advent Of Billed Party Preference

As noted in the Second Further NPRM, at least one provider of collect-only inmate telecommunications services, Gateway Technologies, Inc. ("Gateway"), has suggested that it would be willing and able to provide calls from prisons as well as the standard security

^{7/}Second Further NPRM at ¶ 4.

equipment at rates comparable to those charged by AT&T, MCI and other large OSPs.^{8/} Specifically, Gateway has proposed to address excessive inmate phone rates through a rate cap pegged to a combination of (1) the "prevailing" current inmate services surcharge (\$3.00), and (2) current daytime MTS rates of the dominant OSP (AT&T).^{9/} To ensure that enforcement would be as self-executing as possible, Gateway has further proposed that a rate cap could be structured based on a model used in California that prohibits LECs from providing billing and collection services to inmate service providers whose rates exceed the Commission-ordered cap.^{10/}

C.U.R.E. believes that Gateway's concept of a mandatory, self-executing rate cap merits further consideration. However, C.U.R.E. does not believe that Gateway's proposal, as it presently stands, goes nearly far enough toward lowering the oppressive cost of collect calls from inmate telephones. Perhaps most significantly, Gateway's proposal incorporates an excessive \$3.00 surcharge that would maintain the high cost of collect calls received by inmate families and friends, who are essentially captive ratepayers. Indeed, not only is the problem of excessive operator surcharges significant in-and-of itself, it is compounded by the fact that most prison telephones automatically limit the duration of inmate calls an increment of time (e.g. 5, 10 or 15 minutes) that requires a second call in order to complete a conversation. Consequently, inmate families and friends often are forced to pay an already

^{8/} Second Further NPRM at 28, ¶ 48; see Ex parte letter from Glenn B. Manishin, Counsel for Gateway, to William F. Caton, Federal Communications Commission (May 5, 1995).

^{9/} Manishin letter at 2.

^{10/} Id. at 6.

excessive surcharge twice to complete what essentially amounts to a single conversation. Thus, C.U.R.E. submits that a properly fashioned rate cap should: (1) establish an inmate services surcharge that does not exceed the surcharge associated with ordinary calling card usage or, at a minimum, ordinary collect calling services; (2) prohibit the imposition of a second surcharge for any subsequent collect call placed by an inmate to the same number on the same day; and (3) establish rates comparable to those enjoyed by all other recipients of collect calls from non-prison telephones.

Although Gateway asserts generally that higher rates are necessary for inmate collect calls because "[t]here are a number of areas in which costs for inmate service providers substantially exceed those associated with calling card and ordinary collect calling services,"^{11/} the evidence of record fails to provide any specific cost justification for the rates suggested in Gateway's proposal. Nor does C.U.R.E. believe that there exists any legitimate reason why inmate families and friends should be forced to pay rates in excess of those enjoyed by other parties who are billed for collect calls.^{12/} Thus, any rate cap on collect-only inmate calling services should reflect the rate structure and charges associated with ordinary collect calling services.

B. In Addition To a Rate Cap, Other Operational Measures Should Be Implemented to Remedy Excessive Inmate Calling Rates

^{11/} Id. at 3.

^{12/} If a particular correctional institution wants particular functionalities, it should pay for those features by (1) reducing its commissions, (2) securing funds from its operating budget, or (3) requesting funds from the general tax base. Low-income inmate families and friends should not be saddled with the burden of subsidizing correctional facility "wish lists."

In addition to a properly fashioned rate cap, C.U.R.E. believes that the Commission should implement other measures to help facilitate review of inmate provider rates and reduce the high cost of collect calls placed from inmate telephones. In this regard, C.U.R.E. understands that inmate families and friends are often frustrated in their efforts to combat excessive rates by a lack of information about how a provider's rates were calculated, what billing practices were followed, and how complaints may be filed with the FCC or state regulatory authorities.

Thus, to ensure that consumers have access to full-information about the rates, terms and conditions under which they are being charged for collect calls from prison telephones, C.U.R.E. believes that the Commission should require providers of collect-only inmate telecommunications services to furnish ratepayers with: (1) a full explanation of the providers' billing practices, rates, charges and services, upon request; (2) written notice and an explanation of any change in rates, charges or services; (3) written notice along with each bill of an address where complaints may be filed with FCC and state authorities.

To further ensure that ratepayers and their representatives are able to monitor inmate provider billing rates, C.U.R.E. believes that the Commission should require inmate service providers to: (1) file informational tariffs with the FCC; (2) make copies of those tariffs available for public inspection in a file maintained on the premises of the correctional facility to whom the provider offers service; and (3) provide copies of the tariffs to interested parties upon request.

C.U.R.E. submits that adoption of the foregoing measures, when combined with a properly fashioned rate cap, would serve the public interest by helping interested parties to identify excessive rates and seek their reduction.

CONCLUSION

C.U.R.E. respectfully submits that the families and friends of inmates should not be punished or treated differently from other consumers who receive collect calls from payphones. Reducing the excessive rates and charges associated with collect calls from inmate telephones would enhance community ties between inmates and their families and friends, thereby increasing the likelihood of reform and rehabilitation. C.U.R.E. supports the Commission's efforts to identify remedies for excessive inmate calling rates as interim alternatives to BPP. C.U.R.E. respectfully urges the Commission to implement swiftly a rate reduction plan that will decrease excessive inmate calling rates until BPP can be implemented in a cost-efficient manner.

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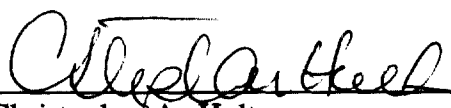
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